

PENNIE &amp; EDMONDS LLP DOCKET NO. 7682-054

## DECLARATION FOR NON-PROVISIONAL PATENT APPLICATION\*

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below at 201 et seq. beneath my name.

I believe I am the original, first and sole inventor if only one name is listed at 201 below, or an original, first and joint inventor if plural names are listed at 201 et seq. below, of the subject matter which is claimed and for which a patent is sought on the invention entitled

NON-SPLICING VARIANTS OF GP350/220

and for which a patent application:

☐ is attached hereto and includes amendment(s) filed on (if applicable)☒ was filed in the United States on November 28, 2000 as Application No. 09/724,418 (for declaration of accompanying application)

with amendment(s) filed on February 28, 2001 (if applicable)

☐ was filed as PCT international Application No. on and was amended under PCT Article 19 on (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED PRIOR TO THE FILING DATE OF THE APPLICATION			
APPLICATION NUMBER	COUNTRY	DATE OF FILING (day, month, year)	PRIORITY CLAIMED
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(c) of any United States provisional application(s) listed below.

PROVISIONAL APPLICATION NUMBER	FILING DATE

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information known to me which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

NON-PROVISIONAL APPLICATION SERIAL NO.	FILING DATE	STATUS		
		PATENTED	PENDING	ABANDONED
08/229,291	4/18/94			✓
08/783,774	4/15/97	✓		
09/556,706	4/24/00		✓	

\* for use only when the application is assigned to a company, partnership or other organization.

PENNIE &amp; EDMONDS LLP DOCKET NO. 7682-054

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

201	FULL NAME OF INVENTOR	LAST NAME Spaete	FIRST NAME Richard	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY Redwood City	STATE OR FOREIGN COUNTRY CA	COUNTRY OF CITIZENSHIP United States of America
	POST OFFICE ADDRESS	STREET 720 Lakemead Way	CITY Redwood City	STATE OR COUNTRY CA
	SIGNATURE OF INVENTOR 201 <i>Richard Spaete</i>			DATE 13 DEC 01
202	FULL NAME OF INVENTOR	LAST NAME Jackman	FIRST NAME Winthrop	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY Berkeley	STATE OR FOREIGN COUNTRY CA	COUNTRY OF CITIZENSHIP United States of America
	POST OFFICE ADDRESS	STREET 433 Coventry Road	CITY Berkeley	STATE OR COUNTRY CA
	SIGNATURE OF INVENTOR 202 <i>W. T. Jackman</i>			DATE 17 Dec. 01
203	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY
	SIGNATURE OF INVENTOR 203			DATE
204	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY
	SIGNATURE OF INVENTOR 204			DATE
205	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY
	SIGNATURE OF INVENTOR 205			DATE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Spaete, R. et al.

Serial No.: 08/229,291

Group Art Unit: 1815

Filed: April 18, 1994

Examiner: M. Mosher

For: NON-SPLICING VARIANTS OF  
GP350/220

Atty Docket No.: 7682-033

POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST  
Revocation of Prior Power of Attorney

Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

Aviron, Inc., organized and existing under the laws of the State of Delaware, having its principal place of business at 297 N. Bernardo Avenue, Mountain View, CA 94043, U.S.A., is assignee of record of the entire right, title and interest in the above-identified application, and parent applications, by virtue of an assignment recorded in the U.S. Patent and Trademark Office on June 29, 1994, at Reel 7029, Frame 0997 in connection with this application.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The assignee hereby REVOKES ALL POWERS OF ATTORNEY previously given for the above-identified application.

The following attorneys are hereby appointed to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

S. Leslie Misrock	Reg. No. 18872
Harry C. Jones, III	Reg. No. 20280
Berj A. Terzian	Reg. No. 20060
Gerald J. Flintoft	Reg. No. 20823
David Weild, III	Reg. No. 21094
Jonathan A. Marshall	Reg. No. 24614
Joseph V. Colaianni	Reg. No. 20019
Charles E. McKenney	Reg. No. 22795
Philip T. Shannon	Reg. No. 24278
Barry D. Rein	Reg. No. 22411
Stanton T. Lawrence, III	Reg. No. 25736
Francis E. Morris	Reg. No. 24615
Charles E. Miller	Reg. No. 24576
Gidon D. Stern	Reg. No. 27469
John J. Lauter, Jr.	Reg. No. 27814
Brian M. Poissant	Reg. No. 28462
Brian D. Coggio	Reg. No. 27624
Rory J. Radding	Reg. No. 28749
Stephen J. Harbulak	Reg. No. 29166
Donald J. Goodell	Reg. No. 19766
James N. Palik	Reg. No. 25510
Thomas E. Friebe	Reg. No. 29258
Laura A. Coruzzi	Reg. No. 30742
Jennifer Gordon	Reg. No. 30753
Jon R. Stark	Reg. No. 30111
Allan A. Fanucci	Reg. No. 30256
Geraldine F. Baldwin	Reg. No. 31232
Victor N. Balancia	Reg. No. 31231
Albert P. Halluin	Reg. No. 25227
Samuel B. Abrams	Reg. No. 30605
Steven I. Wallach	Reg. No. 35402
Ann L. Gisolfi	Reg. No. 31956
Marcia H. Sundeen	Reg. No. 30893
SaraLynn Mandel	Reg. No. 31853

Please direct all correspondence and telephone calls

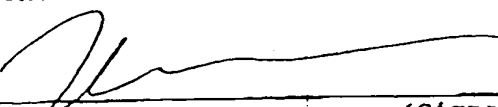
to:

Laura A. Coruzzi  
 PENNIE & EDMONDS  
 1155 Avenue of the Americas  
 New York, New York 10036  
 (212) 790-9090

The undersigned, whose title is supplied below, is empowered to sign this document on behalf of the assignee. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful

false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application captioned above or of any patent issuing thereon.

Date: 15 January 1997

  
\_\_\_\_\_  
Vera Kallmeyer (Signature)  
Aviron V.P., Business Development (Title)  
297 N. Bernardo Avenue  
Mountain View, CA 94043

# Delaware

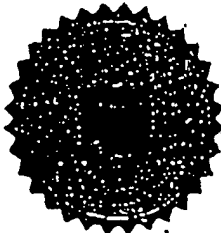
PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP OF "AVIRON", FILED IN THIS OFFICE ON THE FIFTEENTH DAY OF JANUARY, A.D. 2002, AT 4 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

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AUTHENTICATION: 1681841

DATE: 03-21-02

## CERTIFICATE OF OWNERSHIP AND MERGER

OF

APPLE MERGER CORP.

WITH AND INTO

AVIRON

Under Section 253  
of the Delaware General Corporation Law

Apple Merger Corp., a Delaware corporation (the "Corporation"), hereby certifies as follows:

FIRST: The Corporation was incorporated on November 29, 2001, pursuant to the Delaware General Corporation Law (the "DGCL").

SECOND: The Corporation is the owner of at least ninety percent of the outstanding shares of common stock of Aviron. The shares of common stock constitute the only outstanding shares of capital stock of Aviron.

THIRD: The following is a copy of the resolutions duly adopted as of January 15<sup>th</sup>, 2002 by the Written Consent of the Board of Directors of the Corporation with respect to the merger of the Corporation with and into Aviron:

"RESOLVED, that the Corporation be merged (the "Merger") with and into Aviron, with Aviron as the surviving corporation, on the terms and subject to the conditions set forth in the Agreement and Plan of Merger (the "Merger Agreement") dated as of December 2, 2001 among MedImmune, Inc. ("Parent"), the Corporation and Aviron, and the Merger is hereby approved; and further

RESOLVED, that at the effective time of the Merger,

1. Each issued and outstanding share of capital stock of the Corporation shall be converted into and become one validly issued, fully paid and nonassessable share of common stock of Aviron, as the surviving corporation.

2. Each share of common stock (the "Shares") of Aviron that is owned by Parent, the Corporation or Aviron shall

automatically be canceled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

3. Each issued and outstanding Share (other than any shares to be canceled in accordance with 2, above, and other than Shares held by stockholders who perfect appraisal rights under Delaware law) shall be converted into the right to receive 1.075 validly issued, fully paid and nonassessable shares of common stock (the "Parent Shares") of Parent. Notwithstanding the foregoing, each holder of Shares exchanged pursuant to the Merger who would otherwise have been entitled to receive a fraction of a Parent Share (after taking into account all certificates representing Shares delivered by such holder) shall receive, in lieu thereof, cash (without interest) in an amount equal to such fractional part of a Parent Share multiplied by the closing price for a Parent Share as reported in the New York City edition of The Wall Street Journal (or, if not reported thereby, any other authoritative source) on the date prior to the date of the Merger.

FOURTH: The Merger has been approved by MedImmune, Inc., the sole stockholder of the Corporation, by written consent in lieu of a meeting pursuant to Section 228 of the DGCL.



IN WITNESS WHEREOF, the undersigned has duly executed this  
Certificate of Ownership and Merger this 15<sup>th</sup> day of January, 2002.

APPLE MERGER CORP.

By:   
Name: David M. Mott  
Title: Chief Executive Officer

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# Delaware

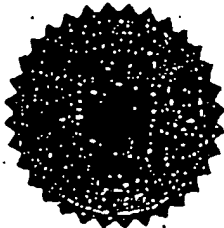
PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "AVIRON", FILED IN THIS OFFICE ON THE FIFTEENTH DAY OF JANUARY, A.D. 2002, AT 4:01 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

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AUTHENTICATION: 1681842

DATE: 03-21-02

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**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
AVIRON**

Pursuant to Sections 242 and 245 of the  
General Corporation Law of the State of Delaware

Aviron, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

**FIRST:** The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on March 7, 1996 under the name Aviron Merger Corporation. The Corporation filed an Amended and Restated Certificate of Incorporation on July 16, 1996; an Amended and Restated Certificate of Incorporation on November 22, 1996; and a Certificate of Amendment of the Amended and Restated Certificate of Incorporation on July 10, 2000.

**SECOND:** The Amended and Restated Certificate of Incorporation has been duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware by the director and the stockholder of the Corporation.

**THIRD:** The Certificate of Incorporation, as amended and restated, is hereby amended and restated to read in its entirety as follows.

**ARTICLE I**

The name of the Corporation is: Aviron

**ARTICLE II**

The address of the registered office of the Corporation in the State of Delaware is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle 19801. The name of the Corporation's registered agent at such address is The Corporation Trust Company.

**ARTICLE III**

The purpose for which the Corporation is organized is to engage in any lawful acts or activities for which corporations may be organized under the General Corporation Law of the State of Delaware.

#### ARTICLE IV

The total number of shares of stock which the Corporation shall have authority to issue is one hundred shares of common stock, par value \$.01, per share.

#### ARTICLE V

Elections of directors need not be by ballot unless required by the by-laws of the Corporation. Any director may be removed from office either with or without cause at any time by the affirmative vote of the holders of a majority of the outstanding stock of the Corporation entitled to vote, given at a meeting of the stockholders called for that purpose, or by the consent of the holders of a majority of the outstanding stock of the Corporation entitled to vote, given in accordance with Section 228 of the General Corporation Law of the State of Delaware.

#### ARTICLE VI

In furtherance and not in limitation of the power conferred upon the Board of Directors by law, the Board of Directors shall have power to make, adopt, alter, amend and repeal from time to time the by-laws of the Corporation, subject to the right of the stockholders entitled to vote with respect thereto to alter, amend and repeal by-laws adopted by the Board of Directors.

#### ARTICLE VII

No director shall be liable to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director, provided that the foregoing shall not eliminate or limit any liability that may exist with respect to (1) a breach of the director's duty of loyalty to the Corporation or its stockholders, (2) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) liability under Section 174 of the Delaware General Corporation Law or (4) a transaction from which the director derived an improper personal benefit, it being the intention of the foregoing provision to eliminate the liability of the Corporation's directors to the Corporation or its stockholders to the fullest extent permitted by Section 102(b)(7) of the Delaware General Corporation Law, as in effect on the date hereof and as such Section may be amended after the date hereof to the extent such amendment permits such liability to be further eliminated or limited. The Corporation shall indemnify to the fullest extent permitted by Section 145 of the Delaware General Corporation Law (as in effect on the date hereof and as such Section may be amended after the date hereof) each person that such Section grants the Corporation the power to indemnify.

IN WITNESS WHEREOF, Aviron has caused this certificate to be executed by its authorized officer, on this 13<sup>th</sup> day of January, 2002.

AVIRON

By:



Name: Charlene A. Friedman

Title: Vice President, General Counsel  
and Secretary

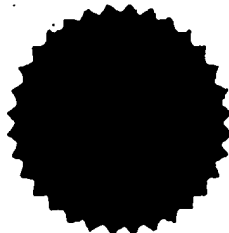
# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "AVIRON", CHANGING ITS NAME FROM "AVIRON" TO "MEDIMMUNE VACCINES, INC.", FILED IN THIS OFFICE ON THE TENTH DAY OF APRIL, A.D. 2002, AT 11 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

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AUTHENTICATION: 1712941

DATE: 04-10-02

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AVIRON

CERTIFICATE OF AMENDMENT TO AMENDED  
AND RESTATED CERTIFICATE OF INCORPORATION

AVIRON, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. The Board of Directors of the Corporation, acting by the Written Consent of its Sole Director, duly adopted, pursuant to Section 242 of the General Corporation Law of the State of Delaware (the "GCL"), resolutions setting forth this proposed Amendment to the Amended and Restated Certificate of Incorporation of said Corporation and declaring said Amendment to be advisable and directing that such Amendment be presented to the sole stockholder of the Corporation for consideration and approval;

2. The stockholder of the Corporation, acting by the Written Consent of its Sole Stockholder, approved and adopted this proposed Amendment to the Restated Certificate of Incorporation of said Corporation in accordance with Section 242 of the GCL;

3. Article 1 of the Amended and Restated Certificate of Incorporation of the Corporation, dated January 15, 2002, is hereby amended to read in full as follows:

"The name of the Corporation is: MedImmune Vaccines, Inc."

IN WITNESS WHEREOF, AVIRON has caused this Certificate to be signed by  
David M. Mott, Chief Executive Officer, this day 8 of April 2002.

AVIRON

By: 

David M. Mott  
Chief Executive Officer

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PAGE 03

DOVEY BALLANTINE LLP

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